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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/443,233	11/18/1999	JOHN A. HELGENBERG	TN167	6933

7590 01/07/2004

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 01/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/443,233

Applicant(s)

HELGENBERG ET AL.

Examiner

Gary W Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-3, 5-8, 14, 15 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 22, 24 and 25 is/are allowed.
- 6) ☐ Claim(s) 1-3, 6-8, 14, 15, 22 and 26 is/are rejected.
- 7) ☐ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. As it may affect the scope of independent claims that might be rightfully examined at this time, Applicant's election without traverse of the invention of Group I (as represented in Fig 1A) for example in Paper No. 5 is acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The original disclosure uses the term 'means' in description of structure that is used exclusively with respect to non-elected second and third embodiments of the invention for releasing engagement of the stud and spring. The original disclosure does not describe which if any structure of the elected embodiment corresponds with present limitation of "means for disengaging said stud and said toroidal spring" whereby it is not clear what structure might be included or excluded by present limitation. See MPEP 2181-2185.

Based on plain meaning of the limitation especially as read in light of the entire disclosure, the ^{claim} ~~limitation~~ appears to be directed solely towards non-elected

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embodiment(s) of the invention and should be withdrawn from consideration. See MPEP 821. However, to expedite prosecution, the limitation is being interpreted more broadly (to include any structure that might allow for release) but clarification and/or correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,639,113 to Goss.

Goss '113 teaches Applicant's claim limitations including : a "stud" – 12, "having an outer surface oriented at an angle to said axis" – the angled surface at 30, a "resilient spring member" – 28 where that structure is inherently capable of deformation to allow passage of the stud and is explicitly shown in contact with a surface of part 14.

6. Claims 1-3, 6-8, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,750,762 to Corzine.

Corzine '762 discloses 'prior art' in Fig's 1 and 2 for example that teach all limitations including : a "stud" – 15, "having an outer surface" – the angled outer end of

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part 15, a “resilient member” – 14, “substantially perpendicular” – as shown, “relaxed state,..., expandable” – as described.

As regards claim 2, part 10a reads on broad interpretation of “frame”

As regards claim 3, the “stud” is mounted on 10a as shown in the Fig’s.

As regards claim 26, inasmuch as one of ordinary skill in the art would recognize that given sufficient force, the ‘prior art’ coupling can inherently be pulled in parallel directions to effect a released position with or without a special tool and thereby inherently teaches capability of release. Otherwise, it is not clear whether the claimed invention actually includes any structure not taught by the prior art.

7. Claims 1-3, 6-8, 14, 15, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,906,031 to Vyse.

Vyse ‘031 teaches Applicant’s claim limitations including : a “substantially cylindrical stud” – 11, “extending outwardly from a first one of said structures” – either the protruding portion 21 or the structure to which part 11 is mounted in use reads on broad limitation, a “resilient member” – 12, “each of said surfaces being substantially perpendicular to said axis of said stud” – Fig 3 illustrates surfaces at 32,36 that read on limitation.

As regards claim 2, col 2, line 46 discloses ‘housing’ where broad limitation of “frame” does not include further structural description that can be relied upon to patentably define from structure of the prior art.

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As regards claim 14, Vyse '031 teaches the stud being "mounted on one of said structures" - the structure (any one of; tubing, engine block, or oil cooler) to which part 11 is attached, a "toroidal radial spring" - 12, a "groove" - at 28 as shown, a "shoulder" - the angled portion shown (in dashed line on face of Patent) to be in abutment with part 10.

As regards claim 26, inasmuch as one of ordinary skill in the art would recognize that given sufficient force, the 'prior art' coupling can inherently be pulled in parallel directions to effect a released position with or without a special tool and thereby inherently teaches capability of release. Otherwise, it is not clear whether the claimed invention actually includes any structure not taught by the prior art.

Allowable Subject Matter

8. Claims 22, 24, and 25 are allowed.

9. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection.

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However, as regards previous and present rejection of claim 23 in view of Goss '113; inasmuch as Fig 8 explicitly illustrates the o-ring 28 to be in contact with the angled surface of the stud, it is not clear how the proposed amendment can be relied upon to patentably define from the structure of the prior art.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary W Estremsky whose telephone number is 703 308-0494. The examiner can normally be reached on M-Thur 7:30-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703 306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-2168.



Gary W Estremsky
Examiner
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